such part payment is a good discharge of the whole debt (according to an early decision). *Warren* v. *Skinner,* 20 Conn. 559. The fact of the debtor's insolvency, however, was formerly held to have no effect in determining the question of consideration for "the obligation to pay was not impaired, and the moral duty remained in full force." *Pearson and Fant* v. *Thomason,* 15 Ala. 700, 50 Am. Dec. 159. More recent decisions, however, have greatly extended the meaning of the term "consideration" in order to give the old rule as little effect as possible. Thus, a part payment of the debt by a person other than the debtor, has been held to be a valid accord and satisfaction. *Pettigrew Machine Co.* v. *Harmon,* 45 Ark. 290. The mere fact that the debtor is insolvent, as in *Engbretson* v. *Seiberling,* 122 Ia. 332, 64 L. R. A. 75, 98 N. W. 319, 101 Am. St. Rep. 279, or in failing circumstances, as in *Curtiss* v. *Martin,* 20 Ill. 557, or is supposed to be insolvent though it is afterwards ascertained that he is not so actually, as in *Rice* v. *London & Northwest American Mortgage Co.,* 70 Minn. 77, 72 N. W. 826, is sufficient to except the case from the operation of the early rule. Other decisions supporting the principal case are, *Dawson* v. *Beall,* 68 Ga. 328; *Hinckley* v. *Arey,* 27 Me. 362; *Herman* v. *Schlesinger,* 114 Wis. 382, 90 N. W. 460, 91 Am. St. Rep. 922. In fact, as is said in the opinion in the principal case "a valuable consideration" has come to mean "some right, interest, or benefit to one party, or some loss, detriment, or responsibility resulting actually or potentially to the other." Thus, in this case, the consideration lay in the fact that the creditor received a sum certain instead of the chance of an uncertain dividend in bankruptcy. In business, especially when a merchant is greatly in need of ready money, there is a "difference between the right to a thing and the actual possession of it," and as conditions have changed, the "courts, so far as they could without sacrifice of the maxim of stare decisis, have brought the law into closer accord with modern business principles." *Melroy et al.* v. *Kemmerer,* supra.

CRIMINAL LAW—VENUE—STATUTES—VALIDITY.—A statute (Comp. Laws, § 11633), providing that one committing larceny in a railroad car while en route, may be prosecuted in any county through which the car passes, is *held* to violate Const. Art. VI, § 27, preserving the right of trial by jury, which means a trial by jury in the county where the alleged offense was committed. *People* v. *Brock* (1907), — Mich. —, 112 N. W. Rep. 1116.

The decision in the principal case is based on *Swart* v. *Kimball,* 43 Mich. 443, which holds that the right of trial by jury is the right to be tried by a jury in the county where the offense was committed. In *Craig* v. *State,* 50 *Tenn.* (3 Heisk.) 227, a statute similar to that of Michigan, was held unconstitutional and for the same reason. On the other hand, *Watt* v. *People,* 126 Ill. 9, 18 N. E. 340, 1 L. R. A. 403, holds a similar statute constitutional. But this case is distinguishable from the principal case in that the constitution of Illinois provides for trial in the county "in which the offense *is alleged* to be committed." In *Sterman* v. *State,* 10 Mo. 503, a similar statute was held constitutional, but in *State* v. *Anderson,* 191 Mo., 134, the court, without referring in any way to the previous decision, held such a statute unconstitutional. In other states, convictions on such statutes have been upheld, but the

constitutional question involved was not referred to. *People* v. *Hulse,* 3 Hill 309; *Nash* v. *State,* 2 Iowa, 286; *State* v. *Timmen,* 4 Minn. 325, 4 Gil. 241. Similar questions are involved under statutes providing that offenses committed on or near the boundary line of two counties are triable in either. Such statutes have been held constitutional. *Patterson* v. *State* (Ala., 1906), 41 So. 157; *State* v. *Robinson,* 14 Minn. 447. But in other cases they are held not constitutional. *Buckrice* v. *People,* 110 Ill. 29; *State* v. *Lowe,* 21 W. Va. 782; *Armstrong* v. *State,* 41 Tenn. 338. Statutes allowing one who commits larceny in one county to be tried in any county into which he may go with the stolen goods have been held constitutional. *State* v. *Johnson,* 38 Ark. 568; *State* v. *Price,* 55 Kan. 606; *State* v. *Douglas,* 17 Me. 193. As the statute in the principal case provided for trial for larceny, such cases may have bearing on the point there decided, but the court did not discuss that point.

DAMAGES—CONVERSION.—In an action of trover for a mare the jury rendered the following verdict: "We, the jury, find for the plaintiff for the calico pacing mare valued at $40 and assess $10 for the detention and use thereof." *Held,* the ordinary measure of damages in trover is the value of the chattel at any time between the conversion and the time of trial, and an assessment of damages for detention and use is erroneous. *McGowan* v. *Lynch* (1907), — Ala. —, 44 So. Rep. 573.

The general rule is, the measure of damages in an action for conversion is the value of the chattel at the time of the conversion with legal interest thereon. *Beecher* v. *Denniston,* 13 Gray (Mass.) 354; *Woods* v. *Gaar,* 93 Mich. 143, 53 N. W. 14. Some courts make a distinction between goods having a fixed value and those of fluctuating value by giving as damages in the latter case the highest value within a reasonable time after notice of the conversion to the original owner. *Galigher* v. *Jones,* 129 U. S. 193, 32 L. Ed. 658, 9 Sup. Ct. Rep. 335. Prior opinions in Alabama have attempted to make a similar distinction, but seldom, if ever, has the court applied the general rule even in actions for conversion of goods of fixed value. *Jenkins* v. *McConico,* 26 Ala. 213; *Loeb* v. *Flash,* 65 Ala. 526. The decision in the principal case is based on an early Alabama ruling in an action for conversion of a slave. *Tatum et al.* v. *Manning,* 9 Ala. 144. There are a few jurisdictions in which the Alabama rule as to the measure of damages for conversion prevails. *Jaques* v. *Stewart,* 81 Ga. 81, 6 S. E. 815; *Carter* v. *Dupre,* 18 S. C. 179; *Stephenson* v. *Price,* 30 Tex. 715; *Hilliard Flume & Lumber Co.* v. *Woods,* 1 Wyo. 396. The allowance of interest from the time of conversion is regarded as a substitute for damages for the loss of the use of the converted property, but it has been held that if a defendant is successful in replevin he may recover the value of the replevied property and damages for its detention by plaintiff if such damages exceed the legal interest from the time of seizure by the plaintiff. *Hartley State Bank* v. *McCorkell,* 91 Ia. 660, 60 N. W. 197.

DEEDS—CONSTRUCTION—INTENT OF PARTIES.—The widow and children of decedent agreed among themselves to partition his land. Whereupon a